



DEPARTMENT OF STATE

Washington, D.C. 20520

August 23, 1982

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(With SECRET Attachment)

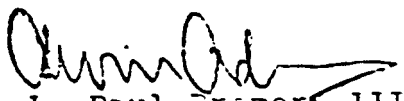
TO : OVP - Mr. Donald P. Gregg-8225272
 NSC - Mr. Michael O. Wheeler-8225273
 Agriculture - Mr. Raymond Lett-8225274
 CEA - Mr. William Niskanen-8225275
 CIA -
 Commerce - Mrs. Helen Robbins -8225277
 Defense - COL John Stanford-8225278
 OMB - Mr. William Schneider -8225279
 OPD - Mr. Edwin Harper-8225280
 Treasury - Mr. David Pickford-8225281
 USTR - Mr. Dennis Whitfield-8225282

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SUBJECT: SIG-IEP Meeting, August 24, 11:00 a.m., Room 7219,
 Department of State

Attached is an options paper prepared by the Department of State for the August 24 meeting of the SIG-IEP. The discussion will focus on options for implementing the June 18, 1982 and December 29, 1981 decisions on Soviet gas pipeline sanctions. A legal memorandum has been circulated by the Treasury Department.

Participation in Tuesday's meeting will be Principal plus one. Please telephone the names of your agency's representatives to Sharon Ohta, 632-5804, by COB today.


 L. Paul Bremer, III
 Executive Secretary

Attachment:

Discussion Paper

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OPTIONS PAPER

Option I

- Use full force of EAA: civil and criminal penalties, use "intent to violate" as grounds.
- Support with vigorous efforts in other areas: trade sanctions, military cooperation.

Analysis: Would demonstrate US resolve, but would probably lead to European retaliation in other areas and could undermine NATO cohesion.

Option II

- Use EAA civil penalties on basis of actual violation (shipment).
- No initial resort to collateral pressures government-to-government.
- Couple with effort to improve atmosphere by seeking to get Europeans to trade up to broader range of sanctions as under Option IV.
- Send high-level mission or emissary to discuss our approach with Europeans and urge they not violate US sanctions.

Analysis: Minimum necessary to convey seriousness of the President's purpose. Relative US restraint on enforcement and improved atmosphere might make subsequent deal possible and would limit damage if violation-enforcement cycle begins.

Option III

- Build on Option II enforcement posture.
- Europeans agree not to ship pending conciliation of arbitration.
- In return for US agreement to go to arbitration (which we might well lose), Europeans demonstrate more cooperative attitude on East-West issues, including COCOM, credits and energy issues.

Analysis: Option would have advantage of defusing confrontation on pipeline sanctions and gaining greater US-European cooperation on East-West issues. Downside risks include substantial risk that US would lose its case in arbitration and that deal would be seen domestically as Presidential backdown. In addition, Soviets would have to agree not to enforce penalty clauses vs. European firms or firms would have to agree to accept such losses, neither of which is very likely.

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Option IV

- Build on Option II enforcement posture.
- Agree to rescind control on US equipment, subsidiaries and licensees on oil and gas as regards contracts concluded before December 29 (including exports by US companies pursuant to those contracts) if UK, FRG, France, Italy and Japan agree to a) embargo all new sales of critical oil and gas exploration, production and transmission equipment and technology until NATO conditions on Poland are met; b) implement significant restraints on government credit guarantees and subsidies to the Soviets; c) reaffirm commitment to tighten controls on high technology in COCOM review this fall; d) accelerate work on alternate energy.
- If Allies refuse, reexamine other options.

Analysis: Option IV would have same major advantages as Option III and would involve fewer legal problems than arbitration. While the alternative multilateral sanctions would probably impose costs on the Soviets at least as great as our existing unilateral sanctions, the trade-off would involve substantial risks of domestic criticism. It would also entail more substantial European concessions on East-West issues than Option III and thus would risk French opposition.

Implementation

I. Use of EAA Penalties

Under Option I, Commerce should move as soon as it has firm evidence of use of US goods by a company with intent to violate our sanctions. Commerce should immediately issue an ex parte temporary denial order against such company(ies) and initiate other civil/criminal proceedings under the law. Such action would probably be contested in US courts.

Under Options II through IV, Commerce would wait until an actual shipment occurred and then promptly issue a temporary denial order (as above). However, it would forego initiating criminal proceedings, and would not press for other permanent sanctions.

II. Additional Elements

Under Option I, a senior official should be sent asap to the four European capitals (London, Bonn, Paris, Rome) to outline non-EAA actions we will consider/take if shipments proceed. (Embassies in such capitals should be asked to comment on or propose areas in which their host countries would be most vulnerable.) The SIG-IEP should be directed to develop options for the supplementary actions asap.

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Option II will require considerable interagency work to agree on a package of proposals. SIG-IEP should be directed to accelerate its current work program on this; when it is sufficiently advanced, send senior official to Europe to outline our intentions (earliest would probably be end-August or early September).

Option III should be implemented asap. High-level approaches should be made in four capitals outlining our proposal and asking for early response. If favorable, proceed as rapidly as possible to arbitration. However it may take several weeks to work out the mechanics, and possibly months to complete the proceedings. If Europeans do agree to this proposal, it effectively prolongs the status quo. We could seek to prolong this process in the expectation that developments in Poland would improve sufficiently to permit removal of sanctions, or deteriorate to point where Europeans would join us.

Option IV could be implemented either immediately or soon after the first violation of our sanctions occurs. (There may be some advantage to waiting until a denial order has been issued in order to bring home the strength of our resolve to both domestic and foreign audiences.) When the timing is judged right, send a senior official to the four capitals and Tokyo to present our proposals. (This should be done not later than a few days after the order has been issued.) The President should call his counterparts in each capital (or send a personal letter to each just before the denial order is issued) informing the country concerned of that fact and asking all that the official be received at the highest possible level. He should urge that secrecy be maintained about the purpose of his trip and the proposals he will make, as well as their earliest reaction to the proposals.

Upon assessment of the results of the trip, coordinate public announcement of the agreed measures with the allies concerned and proceed to modify the sanctions as specified above. (Congressional consultations should precede the lifting of the sanctions.) A Foreign Ministers meeting of the Summit Seven could be convened shortly after the announcement to agree on a work program to implement the agreement on future contracts, credits, COCOM and energy.

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MEMORANDUM FOR: Addressees

The attached document has
been disseminated to the following,
per the SDO's instructions:

Acting DCI

Exec Dir

C/CSG

DDI

A DDI

Exec Sec (original)

NIO/USSR-EE

SNO

D/SOVA

2200hr

D/CPAS

Date 23 Aug 82

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